

The Gazette of India

EXTRAORDINARY

Part II—Section 2

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RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 10th March, 1958:—

BILL NO. II OF 1958

A Bill to provide for the eviction of unauthorised occupants from public premises and for certain incidental matters.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Public Premises (Eviction of Unauthorised Occupants) Act, 1958. Short title
and exten

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “estate officer” means an officer appointed as such by the Central Government under section 3;

(b) “public premises” means any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the Central Government; and, in relation to the Union territory of Delhi, includes also—

(i) any premises belonging to the Municipal Corporation of Delhi or any municipal committee or notified area committee; and

(ii) any premises belonging to the Delhi Development Authority, whether such premises are in the possession of, or leased out by, the said Authority;

(c) "premises" means any land or any building or part of a building and includes,—

(i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building, and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "unauthorised occupation", in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

Appoint-
ment of
estate
officers.

3. The Central Government may, by notification in the Official Gazette,—

(a) appoint such persons, being gazetted officers of Government, as it thinks fit to be estate officers for the purposes of this Act; and

(b) define the local limits within which, or the categories of public premises in respect of which, each estate officer shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under this Act.

Issue of no-
tice to show
cause against
order of
eviction.

4. (1) If the estate officer is of opinion that any persons are in unauthorised occupation of any public premises and that they should be evicted, the estate officer shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.

(2) The notice shall—

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the public premises, to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than ten days from the date of issue thereof.

(3) The estate officer shall cause the notice to be affixed on the outer door or some other conspicuous part of the public premises, and the contents thereof to be proclaimed in the locality by beat of drums, whereupon the notice shall be deemed to have been duly given to all persons concerned.

(4) Without prejudice to the provisions of sub-section (3), the estate officer may also cause copies of the notice to be served on the persons principally concerned either by post or by delivering or tendering the copies to them.

5. (1) If, after considering the causes, if any, shown by any persons in pursuance of a notice under section 4 and after giving them a reasonable opportunity of being heard, the estate officer is satisfied that the public premises are in unauthorised occupation, the estate officer may make an order of eviction directing that the public premises shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises.

Eviction of unauthorised occupants.

(2) If any person refuses or fails to comply with the order of eviction within thirty days of the date of its publication under sub-section (1), the estate officer or any other officer duly authorised by the estate officer in this behalf may evict that person from, and take possession of, the public premises and may, for that purpose, use such force as may be necessary.

6. (1) Where any persons have been evicted from any public premises under section 5, the estate officer may, after giving fourteen days' notice to the persons from whom possession of the public premises has been taken and after publishing the notice in at least one newspaper having circulation in the locality, remove or cause to be removed or dispose of by public auction any property remaining on such premises.

Disposal of property left on public premises by unauthorised occupants.

(2) Where any property is sold under sub-section (1), the sale proceeds shall, after deducting the expenses, of the sale and the amount, if any, due to the Central Government on account of arrears of rent or damages, be paid to such person or persons as may appear to the estate officer to be entitled to the same.

7. (1) Where any person is in arrears of rent payable in respect of any public premises, the estate officer may, by order, require that person to pay the same within such time as may be specified in the order.

Power to recover rent or damages in respect of public premises as arrears of land revenue.

(2) Where any person is, or has at any time been, in unauthorised occupation of any public premises, the estate officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of the use and occupation of such premises and may, by order, require that person to pay the damages within such time as may be specified in the order:

Provided that no such order shall be made until after the issue of a notice in writing to the person calling upon him to show cause

within such time as may be specified in the notice why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the estate officer.

(3) If any person refuses or fails to pay the arrears of rent payable under sub-section (1) or the damages payable under sub-section (2) within the time specified in the order relating thereto, the estate officer may issue a certificate for the amount due to the Collector who shall proceed to recover the same as an arrear of land revenue.

Power of
estate
officer.

8. An estate officer shall, for the purpose of holding any inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

5 of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) any other matter which may be prescribed.

Appeals.

9. (1) An appeal shall lie from every order of the estate officer made in respect of any public premises under section 5 or section 7 to an appellate officer who shall be the district judge of the district in which the public premises are situate or such other judicial officer in that district of not less than ten years' standing as the district judge may designate in this behalf.

(2) An appeal under sub-section (1) shall be preferred—

(a) in the case of an appeal from an order under section 5, within fifteen days from the date of publication of the order under sub-section (1) of that section; and

(b) in the case of an appeal from an order under section 7, within fifteen days from the date on which the order is communicated to the appellant:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of fifteen days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Where an appeal is preferred from an order of the estate officer, the appellate officer may stay the enforcement of that order for such period and on such conditions as he deems fit.

(4) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.

(5) For the purposes of this section, a presidency town shall be deemed to be a district and the chief judge or the principal judge of the city civil court therein shall be deemed to be the district judge of the district.

10. Save as otherwise expressly provided in this Act, every order made by an estate officer or appellate officer under this Act shall be final and shall not be called in question in any original suit, application or execution proceedings. Finality of orders.

11. No suit, prosecution or other legal proceeding shall lie against the Central Government or the appellate officer or the estate officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder. Protection of action taken in good faith.

12. The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by a State Government or an officer of the State Government. Delegation of powers.

13. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form of any notice required or authorised to be given under this Act and the manner in which it may be served;

(b) the holding of inquiries under this Act;

(c) the procedure to be followed in taking possession of public premises;

(d) the manner in which damages for unauthorised occupation may be assessed and the principles which may be taken into account in assessing such damages;

(e) the manner in which appeals may be preferred and the procedure to be followed in appeals;

(f) any other matter which has to be, or may be, prescribed.

(3) All rules made under this section shall, as soon as may be after they are made, be laid for not less than thirty days before each House of Parliament and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

STATEMENT OF OBJECTS AND REASONS

The Public Premises (Eviction) Act, 1950, was enacted to provide a speedy machinery for the eviction of persons in unauthorised occupation of public premises and certain incidental matters. This Act has been declared *ultra vires* by the Calcutta, Allahabad and Punjab High Courts. The Calcutta High Court has held that the provisions of the Act constitute a wholly unreasonable restriction on the fundamental right guaranteed to a citizen of acquiring and holding property and as such are void. According to the Allahabad High Court, the provisions of the Act are discriminatory. The Punjab High Court, however, did not agree with the Allahabad High Court that the Act offended against article 14 of the Constitution but it has held in agreement with the Calcutta High Court that the Act offends against the fundamental right to property conferred on citizens by the Constitution.

2. The above decisions have made it impossible for Government to take speedy action even in flagrant cases of unauthorised occupation of public premises and the only way in which such persons may be evicted is by the ordinary process of law which often involves considerable delay. It has, therefore, become necessary to provide a speedy machinery for the eviction of persons who are in unauthorised occupation of public premises keeping in view at the same time the necessity of complying with the provisions of the Constitution. The present Bill seeks to achieve this object.

3. This Bill provides for the appointment of estate officers who have been empowered to evict persons in unauthorised occupation of public premises. The procedure which the estate officer is to follow for evicting such persons has been laid down in the Bill itself. Reasonable opportunity has to be given to the persons affected to show cause against the proposed order of eviction and also to present their case to the estate officer at the time of the inquiry. If the estate officer makes an order of eviction, he is to give the persons in occupation of the public premises thirty days' time to vacate the premises. Provision has also been made for an appeal against every order of the estate officer to an independent judicial officer who will be the district judge of the district in which the public premises are situated or such other judicial officer of not less than ten years' standing as the district judge may nominate in this behalf. The

provision for a fair hearing before estate officers and that of an appeal against their orders to an independent judicial officer will be a safeguard against any arbitrary exercise of powers by the estate officers. The Bill also contains provisions for recovery of rent and damages as an arrear of land revenue. This Bill seeks to replace the existing Public Premises (Eviction) Act, 1950.

K. C. REDDY.

NEW DELHI;

The 3rd March, 1958.

FINANCIAL MEMORANDUM

Clause 3 of the Bill contemplates appointment of estate officers who would be empowered to evict persons in unauthorised occupation of public premises. It is intended that this work would be entrusted to existing estate officers and it may not, therefore, be necessary to incur any additional expenditure. But the possibility of additional posts being created for dealing with the extra work cannot be ruled out altogether. Clause 9 of the Bill provides for appeal to the district judge or other judicial officers nominated by the district judge.

2. The Bill, if enacted and brought into operation, may not involve additional expenditure. Even if any additional expenditure is involved, it is not likely to be appreciable.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules in respect of matters specified therein. They relate, *inter alia*, to the form of any notice and the manner in which it may be served, the manner of holding of inquiries, the manner in which appeals may be preferred and the procedure to be followed in appeals, the procedure to be followed in taking possession of public premises and the manner in which damages for unauthorised occupation may be assessed and the principles which may be taken into account in assessing such damages. The matters in respect of which rules may be made are of a routine and administrative character. Moreover, the rules to be made shall be subject to the scrutiny of Parliament. The delegation of legislative power is thus of a normal character.

S. N. MUKERJEE,
Secretary.

